



SERVICE EMPLOYEES
INTERNATIONAL UNION
AFL-CIO, CLC

MICHIGAN
STATE COUNCIL

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Dear House Commerce Committee Members:

My name is Cynthia Ann Paul and I want to thank you for allowing me this opportunity to testify before you today. Today, I am speaking on behalf of and representing the 78,000 SEIU members and their families in the state of Michigan. SEIU is adamantly opposed to House Bill 6213 because it will not only deny many of our members' eligibility for overtime but it is contrary to the original intent adopted by the Federal Fair Labor Standards Act (FLSA) and Michigan's Minimum Wage Act (MWA). Which were both adopted to improve the working conditions and lives and of working families by providing a disincentive for employers to work employees inhumanely long hours (over 40 hrs.), that they receive a decent (minimum wage) and that children are not exploited on the labor market.

On March 28, 2006, Governor Granholm signed a bill increasing Michigan's minimum wage (currently \$ 5.15 per hour) in three steps: 1) Effective October 1, 2006-\$6.95 per hour; 2) Effective July 1, 2007- \$7.15 per hour; 3) Effective July 1, 2008- \$7.40 per hour. Michigan's law states, **"that Michigan law does not apply to employers subject to the federal minimum wage law (the Fair Labor Standards Act [FLSA]) provided that the federal minimum wage is not less than Michigan's minimum wage."** Now for the first time in history Michigan's minimum wage will be higher than the federal minimum wage which will cause many employers to fall under the purview of the state law rather than federal, including its overtime provisions. There are significant differences between the federal and state overtime law, and where differences between state and federal law exist, **whichever is beneficial to employees will control.** In many cases, this will be Michigan law.

Michigan law differs from federal law in the following ways:

- The state law exemption from overtime for executives, administrative and professional employees is not nearly as broad and encompassing as federal law (in particular with deductions, income in excess of \$100,000, and doctors, lawyers, teachers or computer professionals earning at least \$27.63 per hour will be entitled to overtime) thus, more executive, administrative and professional employees may be eligible to collective overtime pay; -This may impact our Local 517M salaried employees. There have also been many RN's denied overtime benefits under the new federal regulations implemented August 23, 2004.
- Outside sales personnel are not exempt from overtime under state law and may be eligible to collect overtime pay.
- Commissioned employees who work at retail or service establishments are not exempt from overtime under state law and may be eligible to collect overtime pay.
- Federal law exempts certain employees who work in the following jobs and industries from collecting overtime that may be eligible for overtime pay under state law:
 1. Drivers whose driving is regulated by the U.S. Department of Transportation;
 2. Mechanics, drivers, and driver helpers engaged in interstate commerce and employed by a motor carrier if duties affect safety;
 3. Sales employees, parts-men and mechanics employed by automobile dealerships;
 4. Sales employees, parts-men and mechanics employed by boat dealers;
 5. Aircraft sales employees;
 6. Forestry employees of small firms;
 7. Employees of movie theaters;
 8. Newspaper delivery personnel;
 9. Babysitters;



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10. Domestic caregivers; included in this definition are the home care workers recently organized by SEIU Local 79;

11. Employees of newspapers of small circulation;

12. Employees of radio and television stations in small markets; and

13. Taxi drivers.

➤ Federal law also permits hospitals and other health care institutions to base overtime pay on an 8-hour per day or 80-hours per two-week period method, instead of the regular 40-hour workweek. State law does not contain any provision, thus, hospitals and nursing homes most likely will have to compute overtime utilizing the regular 40-hour week. Closing the federal loophole that allows healthcare employers to avoid paying overtime.

➤ Federal law excludes stock options and grants from being included in a person's "regular rate" when calculating for overtime pay. Michigan does not have such a restriction, and thus, the "regular rate" used for calculating overtime may be higher for employees receiving such options.

In a nutshell, more workers will be eligible to collect overtime pay because they will fall under state law rather than federal.

Once again, I would like to thank you for allowing me this opportunity to testify before you and if you have any additional questions, please call me at (517) 482-4886.

Sincerely,

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